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OPEN MEETING ITEM



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ARIZONA CORPORATION COMMISSION 2001 APR 17 A 10: 54

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DATE: APRIL 17, 2001

DOCKET NO.: T-03902A-00-0509

TO ALL PARTIES:

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SD

Enclosed please find the recommendation of Administrative Law Judge Stephen Gibelli. The recommendation has been filed in the form of an Opinion and Order on:

CENTURYTEL SOLUTIONS, LLC  
(CC&N/FACILITIES BASED)

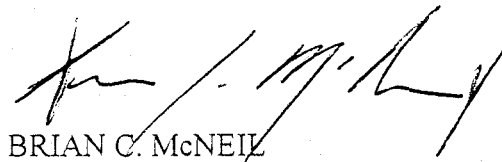
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

APRIL 26, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MAY 1, 2001 and MAY 2, 2001

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL  
3 CHAIRMAN  
4 JIM IRVIN  
5 COMMISSIONER  
6 MARC SPITZER  
7 COMMISSIONER

8 IN THE MATTER OF THE APPLICATION OF  
9 CENTURYTEL SOLUTIONS, LLC FOR A  
10 CERTIFICATE OF CONVENIENCE AND  
11 NECESSITY TO PROVIDE COMPETITIVE  
12 FACILITIES-BASED AND RESOLD LOCAL  
13 EXCHANGE AND ACCESS  
14 TELECOMMUNICATIONS SERVICES

DOCKET NO. T-03902A-00-0509

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

10 DATE OF HEARING: March 28, 2001

11 PLACE OF HEARING: Phoenix, Arizona

12 ADMINISTRATIVE LAW JUDGE: Mr. Stephen Gibelli

13 APPEARANCES: Ms. Phyllis A. Whitten and Ms. Vickie Byrd,  
14 SWIDLER BERLIN SHEREFF FRIEDMAN, L.L.P.,  
on behalf of CenturyTel Solutions, LLC;

15 Mr. Devinti Williams, Staff Attorney, Legal Division,  
16 on behalf of the Utilities Division of the Arizona  
Corporation Commission.

17 **BY THE COMMISSION:**

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

20 **FINDINGS OF FACT**

21 1. CenturyTel Solutions, LLC ("CenturyTel" or "Applicant") is a Louisiana limited  
22 liability company, authorized to do business in Arizona since 2000.

23 2. On July 14, 2000, CenturyTel filed with the Commission an application for a  
24 Certificate of Convenience and Necessity ("Certificate") to provide competitive facilities-based and  
25 resold local exchange and access telecommunications services in Arizona.

26 3. On October 6, 2000, Applicant filed an Affidavit of Publication indicating compliance  
27 with the Commission's notice requirements.

28 4. On December 6, 2000, CenturyTel filed an update to its application.

1           5.       On January 23, 2001, the Commission's Utilities Division Staff ("Staff") filed its Staff  
2 Report, which recommended approval of the application and included a number of additional  
3 recommendations.

4           6.       On March 20, 2001, CenturyTel filed updated financial statements in support of its  
5 application.

6           7.       Pursuant to the Commission's January 29, 2001 Procedural Order, a hearing was held  
7 on March 28, 2001, and Applicant and Staff presented evidence.

8           8.       The management of CenturyTel has many years of experience in the  
9 telecommunications industry.

10          9.       Applicant has the technical capability to provide the services that are proposed in its  
11 application.

12          10.       Currently there are several incumbent providers of local exchange telecommunications  
13 services in the service territory requested by Applicant, and at least several other entities have been  
14 authorized to provide competitive local exchange services in all or portions of that territory.

15          11.       It is appropriate to classify all of Applicant's authorized services as competitive.

16          12.       The Staff Report stated that Applicant has no market power and the reasonableness of  
17 its rates would be evaluated in a market with numerous competitors.

18          13.       According to Staff, CenturyTel has submitted the financial statements of its parent  
19 company, CenturyTel, Inc. for the year ended December 31, 1999. These financial data list assets of  
20 \$4.71 billion, total shareholders' equity of \$1.85 billion, and net income of \$239.77 million on  
21 operating revenues of \$1.68 billion. CenturyTel also submitted the financial statements of its parent  
22 company for the nine months ending September 30, 2000. These statements list assets of \$6.3 billion  
23 and retained earnings of \$1.3 billion.

24          14.       On April 4, 2001, CenturyTel filed a letter indicating that it is not opposed to  
25 obtaining a performance bond as a condition to providing services in Arizona.

26          15.       On April 10, 2001, Staff filed a Response to CenturyTel's letter indicating that Staff is  
27 amending its Report to condition CenturyTel's Certificate upon it procuring a performance bond.

28          16.       Staff recommends that CenturyTel's application for a Certificate to provide

1 competitive facilities-based and resold local exchange and access telecommunications services be  
2 granted subject to the conditions that:

- 3 (a) In order to protect its customers, Applicant procure a performance bond equal  
4 to a minimum of \$100,000 sufficient to cover any prepayments or deposits  
5 collected from the applicant's customers, and the amount of the performance  
6 bond should be increased if at any time it would be insufficient to cover the  
7 aforementioned requirement;
- 8 (b) unless it provides services solely through the use of its own facilities,  
9 Applicant procure an Interconnection Agreement before being allowed to offer  
10 local exchange service;
- 11 (c) Applicant will not provide service in the service territory of its affiliate,  
12 CenturyTel of the Southwest d/b/a CenturyTel;
- 13 (d) Applicant file with the Commission, within 30 days of an Order approving an  
14 interconnection agreement, its plan to have its customers telephone numbers  
15 included in the incumbent's Directories and Directory Assistance databases;
- 16 (e) Applicant pursue permanent number portability arrangements with other LECs  
17 pursuant to Commission rules, federal laws and federal rules;
- 18 (f) Applicant abide by and participate in the AUSF mechanism instituted in  
19 Decision No. 59623, dated April 24, 1996 (Docket No. RT-T-03908A-00-  
20 0559E-95-0498);
- 21 (g) Applicant abide by the quality of service standards that were approved by the  
22 Commission for USWC in Docket No. T-0151B-93-0183;
- 23 (h) in areas where Applicant is the sole provider of local exchange service  
24 facilities, CenturyTel provide customers with access to alternative providers of  
25 service pursuant to the provisions of Commission rules, federal laws and  
26 federal rules;
- 27 (i) Applicant certify, through the 911 service provider in the area in which it  
28 intends to provide service, that all issues associated with the provision of 911  
service have been resolved with the emergency service providers within 30  
days of an Order in this matter;
- (j) Applicant abide by all the Commission decisions and policies regarding  
CLASS services;
- (k) Applicant provide 2-PIC equal access;
- (l) Applicant notify the Commission immediately upon changes to CenturyTel's  
address or telephone number;
- (m) Applicant comply with all Commission rules, orders, and other requirements  
relevant to the provision of intrastate telecommunications service;
- (n) Applicant maintain its accounts and records as required by the Commission;

- 1 (o) Applicant file with the Commission all financial and other reports that the  
2 Commission may require, and in a form and at such times as the Commission  
3 may designate;
- 4 (p) Applicant be ordered to maintain on file with the Commission all current  
5 tariffs and rates, and any service standards that the Commission may require;
- 6 (q) Applicant cooperate with the Commission investigations of customer  
7 complaints; and,
- 8 (r) Applicant participate in and contribute to a universal service fund, as required  
9 by the Commission;

10 17. Staff further recommended that CenturyTel's tariffs be approved on an interim basis  
11 subject to the following:

- 12 (a) That CenturyTel file conforming tariffs within 30 days of an Order in this  
13 matter, and in accordance with the Decision;
- 14 (b) That CenturyTel should be required to file in this Docket, within 18 months of  
15 the date it first provides service following certification, sufficient information  
16 for Staff analysis and recommendation for a fair value finding, as well as for an  
17 analysis and recommendation for permanent tariff approval. This information  
18 must include, at a minimum, the following:
- 19 1. A dollar amount representing the total revenue for the first twelve  
20 months of telecommunications service provided to Arizona customers  
21 by CenturyTel following certification, adjusted to reflect the maximum  
22 rates that CenturyTel has requested in its tariff. This adjusted total  
23 revenue figure could be calculated as the number of units sold for all  
24 services offered times the maximum charge per unit.
- 25 2. The total actual operating expenses for the first twelve months of  
26 telecommunications service provided to Arizona customers by  
27 CenturyTel following certification.
- 28 3. The value of all assets, listed by major category, used for the first  
twelve months of telecommunications services provided to Arizona  
customers by CenturyTel following certification. Assets are not limited  
to plant and equipment. Items such as office equipment and office  
supplies should be included in this list.
- (c) CenturyTel's failure to meet the condition to timely file sufficient information  
for a fair value finding and analysis and recommendation of permanent tariffs  
shall result in the expiration of the Certificate of Convenience and Necessity  
and of the tariffs.

18. On August 29, 2000, the Court of Appeals, Division One, ("Court") issued its Opinion

1 in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of  
2 the Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all  
3 public service corporations in Arizona prior to setting their rates and charges."

4 19. On October 26, 2000, the Commission filed a Petition for Review to the Arizona  
5 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this  
6 time we are going to request FVRB information to insure compliance with the Constitution should  
7 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also  
8 are concerned that the cost and complexity of FVRB determinations must not offend the  
9 Telecommunications Act of 1996.

#### 10 CONCLUSIONS OF LAW

11 1. Applicant is a public service corporation within the meaning of Article XV of the  
12 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

13 2. The Commission has jurisdiction over Applicant and the subject matter of the  
14 application.

15 3. Notice of the application was given in accordance with the law.

16 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a  
17 Certificate to provide competitive telecommunications services.

18 5. Pursuant to Article XV of the Arizona Constitution as well as the Arizona Revised  
19 Statutes, it is in the public interest for Applicant to provide the telecommunications services set forth  
20 in its application.

21 6. Applicant is a fit and proper entity to receive a Certificate authorizing it to provide  
22 competitive facilities-based and resold local exchange and access telecommunications services in  
23 Arizona as conditioned by Staff's recommendations as modified below.

24 7. The telecommunications services that the Applicant intends to provide are competitive  
25 within Arizona.

26 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,  
27 it is just and reasonable and in the public interest for Applicant to establish rates and charges which  
28 are not less than the Applicant's total service long-run incremental costs of providing the competitive

1 services approved herein.

2 9. Staff's recommendations in Findings of Fact Nos. 16 and 17 are reasonable and should  
3 be adopted, in addition to further orders below.

4 **ORDER**

5 IT IS THEREFORE ORDERED that the application of CenturyTel Solutions, LLC for a  
6 Certificate of Convenience and Necessity for authority to provide competitive facilities-based and  
7 resold local exchange and access telecommunications services in Arizona shall be, and is hereby,  
8 granted, as conditioned herein.

9 IT IS FURTHER ORDERED that CenturyTel Solutions, LLC shall comply with all of the  
10 Staff recommendations set forth in Findings of Fact Nos. 16 and 17.

11 IT IS FURTHER ORDERED that CenturyTel Solutions, LLC shall file an application with  
12 the Commission, pursuant to A.A.C. R14-2-1107, if it desires to discontinue service and shall notify  
13 each of its customers and the Commission at least 30 days prior to filing an application to discontinue  
14 service. Any failure to comply with this requirement may result in forfeiture of the Applicant's  
15 performance bond.

16 IT IS FURTHER ORDERED that proof of the performance bond should be docketed within  
17 90 days of the effective date of this Decision.

18 IT IS FURTHER ORDERED that after one year of operation under the Certificate granted by  
19 the Commission, the Applicant shall be allowed to file a request for cancellation of its established  
20 performance bond. Such request should be accompanied by information demonstrating the  
21 Applicant's financial ability. Upon receipt of such filing and after Staff review, Staff will forward its  
22 recommendation to the Commission for a Decision that the requested cancellation is in the public  
23 interest.

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1 IT IS FURTHER ORDERED that CenturyTel Solutions, LLC shall notify the Commission  
2 immediately upon changes to CenturyTel's address or telephone number.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7 CHAIRMAN COMMISSIONER COMMISSIONER

8  
9 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
10 Secretary of the Arizona Corporation Commission, have  
11 hereunto set my hand and caused the official seal of the  
12 Commission to be affixed at the Capitol, in the City of Phoenix,  
13 this \_\_\_\_ day of \_\_\_\_\_, 2001.

14 BRIAN C. McNEIL  
15 EXECUTIVE SECRETARY

16 DISSENT \_\_\_\_\_  
17 SG:dap

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1 SERVICE LIST FOR: CENTURYTEL SOLUTIONS, LLC

2 DOCKET NO.: T-03902A-00-0509

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